



STATE OF WASHINGTON
GAMBLING COMMISSION

P.O. Box 42400 Olympia, Washington 98504-2400 (360) 486-3440 1-800-345-2529 FAX (360) 486-3623

**Commission Position Statement
Senate Bill 5591
February 24, 2005**

At its February 10 meeting, the Washington State Gambling Commission reviewed the zoning bill (SB 5591) currently before the Labor, Commerce, Research & Development Committee and voted unanimously that the current law should not be changed.

For the past four sessions, the Commission has considered similar legislation, including HB 1667 which was considered during the 2003 and 2004 sessions. While expressing the Commission's respect for local jurisdictions, we oppose the legislation, given the historical foundation of the laws regarding gambling. The reasoning of the Commission, consistent with the advice of our Assistant Attorney General, is as follows:

- The current law is simple and straightforward and has been further clarified by recent court decisions, which support local jurisdictions' ability to completely ban or allow gambling activities.
- Local jurisdictions currently have, and should retain, zoning power to control the following and similar issues:
 - Restricting businesses to areas appropriately zoned for such commercial activity
 - Building size, including setbacks
 - Signage and lighting
 - Parking issues, including vehicle ingress and egress, lot size, and vehicle spaces per square foot of an establishment
- The Commission believes the legislation would draw the state and the Commission into additional litigation. The proposed legislation is complex, making the legal effects of the bill uncertain. Although the Commission appreciates the addition of the immunity section (Sec. 3), the Commission believes lawsuits would be related to whether the Commission improperly failed to license businesses or conversely improperly licensed them. The immunity covers suits related to the adoption or enforcement of ordinances, not licensing decisions.
- Although this bill eliminates non-conforming use and variance exceptions, it allows current businesses to be grandfathered (Sec. 5). The gambling statute was written, and the Commission created, to address the corruption and problems that resulted from the tolerance policies in Seattle, King County, and elsewhere in the state. The result was state preemption in this area of law giving the cities and counties the choice whether to allow gambling or not. One of the real goals was to avoid spot



zoning or picking and choosing which licensees would be allowed. The existing law was designed to protect government and the public against the potential practice of favoring certain licensees or allowing some to operate in exchange for rewards to officials. Grandfathering existing businesses could allow this problem to occur because it effectively eliminates other competition. This result is the precise predicament the law was intended to prevent.

- This legislation could have the unintended consequence of expanding gambling. At this point, a number of cities have chosen to totally prohibit gambling because that is their only option. This proposal would allow them to now choose the option to allow gambling in some zones instead of a total local prohibition.

In conclusion, the Commission feels the existing statutes best serve the interests of the state and urges the legislature to reject SB 5591.